




## MEMORANDUM

**Date:** March 12, 2008  
**To:** Chesapeake Bay Board  
**From:** Scott J. Thomas, Director  
Environmental Division   
**Subject:** Colonial Penniman LLC  
Trusswood Waterline Extension CBE-07-039  
County Plan No. SP-106-02 (amended SP-83-07)

---

Since the time of advertisement, it has been determined that this specific case can be reviewed administratively and is therefore being withdrawn from Board consideration. This memorandum provides additional information to support this determination.

A site plan (County Plan No. SP-106-02) was approved in 2003 for the extension of a waterline to the Trusswood Property, which is adjacent to the BASF property and the James River Commerce Park in the Grove area of the County. The waterline extension runs through both the Commerce Park and BASF property and is situated on property owned by the County's Economic Development Authority (EDA).

When the site plan was approved in 2003, there was no Resource Protection Area (RPA) associated with the property. However, after changes to the Chesapeake Bay Preservation Ordinance in 2004, the stream adjacent to the proposed waterline location was declared to be perennial and RPA has now been identified along the waterline alignment. A portion of the easement corridor is within RPA but these impacts (previously 15,048 square feet) are grandfathered in accordance with the vesting/grandfathering policy adopted by the Board of Supervisors when the Ordinance amendments were adopted in November 2003.

Most recently, the original Special Use Permit for the project (SUP-03-02) expired. The applicant had to go back to the Planning Commission and Board of Supervisor to obtain Special Use Permit approval (SUP-25-07). The site plan then had to be re-submitted for staff review under a site plan amendment (SP-83-07). The Water Quality Impact Assessment as submitted with the site plan amendment shows 11,089 square feet of RPA impact. As this total RPA impact is significantly below the original approved grandfathered impact amount, it can be deemed an administrative review.

Staff apologizes to the Board and public for any confusion; however, the grandfathered site plan expires shortly and it was imperative that the Chesapeake Bay Exception be processed for the project. Prior to receipt and full review of the current water quality impact assessment, it decided to put the case on the Chesapeake Bay Board agenda as Board submittal deadlines were looming. If impacts were more than the original grandfathered amount, it would have had to go to the Chesapeake Bay Board for consideration.

The Board can be assured that staff will continue to work with the applicant and the Economic Development Authority on this application. Staff has fully reviewed the site plan as currently proposed for the project and will apply conditions to the CBE request, consistent with if the case went to the Board. The County's Attorney Office concurs with this determination.